

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

JANE DOE,

Plaintiffs,

v.

LIMESTONE UNIVERSITY F/K/A
LIMESTONE COLLEGE, COLLINS
MURPHY, MG FREESITES, LTD., d/b/a
PORNHUB.COM, and HAMMY MEDIA
LTD. d/b/a XHAMSTER.COM,

Defendants.

CASE NO. 7:21-CV-03193-DCC

**DEFENDANT MG FREESITES LTD'S
MOTION TO STAY PURSUANT TO 18
U.S.C. § 1595(B)**

Defendant MG FREESITES, LTD (“MG Freesites”), pursuant to Rule 7.02, Local Civil Rules, hereby moves to stay this action pursuant to 18 U.S.C. §1595(b)(1) (i.e., the “Trafficking Victims Protection Reauthorization Act,” or “TVPRA”). Section 1595(b)(1) of the TVPRA provides that “[a]ny civil action filed under subsection (a) *shall* be stayed during the pendency of *any* criminal action,” including an “investigation,” “arising out of the same occurrence in which the claimant is the victim.” (emphasis added). The basis for MG Freesites’ request for a stay is set forth in detail in a Motion to Stay filed by MG Freesites in a related companion case, *Does 1-9 v. Murphy, et. al*, case number 7:20-cv-00947-DDC (“*Murphy I*”). That Motion to Stay is attached hereto as Exhibit A. The declaration and exhibits filed in support of the Motion are attached hereto as Exhibit B. As set forth below, a stay is mandated in this action (hereinafter referred to as “*Murphy II*”) for the same reasons that it is mandated in *Murphy I*.¹

¹ Although the parties have agreed to consolidate *Murphy I* and this action, their consent motion is still pending. Thus, MG Freesites separately is filing this short Motion to ensure that the stay issue is properly before the Court and docketed in both *Murphy I* and *Murphy II*.

Summary of Background Facts

This is a companion case to the *Murphy I* action, which was filed in 2020. In *Murphy I*, nine former student athletes (proceeding by pseudonym) from Bellarmine College sued Limestone University, Collins Murphy, MG Freesites, and Hammy Media Ltd. for negligence, conspiracy, and related claims. In *Murphy I*, the Plaintiffs allege that in 2012 and 2013, Murphy, while employed as intramural director at Limestone, surreptitiously filmed the interior of a Limestone locker room on several occasions, including while Plaintiffs were present and in various states of undress. See *Murphy I* Fifth Am. Compl. (Dkt. 193) (*Murphy I* Complaint) at ¶¶ 71-78. The content allegedly captured by Murphy (the “Videos”) subsequently was uploaded to MG Freesites’ Pornhub.com website (the “Website”) in 2019 by an individual using the alias “LordFauger18.” *Id.* ¶ 82. Immediately after certain of the Plaintiffs and the police department of the City of Gaffney, South Carolina (the “Gaffney PD”) notified MG Freesites that the Videos were unauthorized, MG Freesites removed them from the Website.

The *Murphy I* Plaintiffs filed their initial complaint in March 2020. See *Murphy I* Dkt. 1. It did not include a claim under the TVPRA. On June 3, 2022—after two years of litigation (and four amendments)—Plaintiffs filed a Fifth Amended Complaint that includes for the first time claims that MG Freesites violated the TVPRA by “participating” and conspiring with Murphy in a sex trafficking venture, including by enabling the Videos taken by Murphy to be created and posted to the Website. See *Murphy I* Complaint ¶¶ 105-108, 116. MG Freesites and other Defendants vigorously fought the amendment as untimely and improperly pled, but Plaintiffs were ultimately granted leave to proceed.

On September 30, 2021, Plaintiff in this action filed a substantially identical lawsuit against Limestone, Murphy, MG Freesites, and Hammy Media (“*Murphy II*”). Through a series of four amendments, the *Murphy II* complaints each mirrored (indeed, they were cut-and-pasted from) the amended complaints filed in *Murphy I*. Like the Plaintiffs in *Murphy I*, the *Murphy II* Plaintiff ultimately alleged that she had been surreptitiously recorded by Murphy in a Limestone locker room in 2012 and that the recording was uploaded in 2019 to the Website by the same individual using the same alias. *Murphy II* Third Am. Compl. (Dkt. 91) (“*Murphy II* Complaint”) at ¶¶ 71-80. The only apparent difference between the Plaintiffs in *Murphy I* and the Plaintiff in *Murphy II* was that they were students at different schools when they visited Limestone College—Plaintiff here alleges that she was a student at Indiana University of Pennsylvania. *Id.* ¶ 67.

On June 20, 2022, MG Freesites filed a motion to stay the *Murphy I* action. Mot. to Stay, *Murphy I* Dkt. 199-1 (Ex. A to this Motion). The motion to stay was based on statements by, and an affidavit received from, the Gaffney PD in response to a subpoena issued by MG Freesites in late 2021. Specifically, the Gaffney PD advised MG Freesites that “there is an ongoing criminal investigation regarding the incident that occurred at Limestone College in the City of Gaffney,” that “Collins Murphy has been named a person of interest” in that investigation, and “production of materials in its law enforcement investigatory file will jeopardize its investigation.” *Id.* 4. An affidavit provided to MG Freesites by Gerald Knight, Chief of Police of the City of Gaffney, confirmed the foregoing. Mayer Decl., Ex. E, *Murphy I* Dkt. 199-2 (Ex. B to this Motion). The Knight affidavit also confirms that the investigation by the Gaffney PD encompasses multiple student athletes who were filmed in Limestone locker rooms during the same time period. *Id.* Thus, the investigation presumably includes both the *Murphy I* and *Murphy II* Plaintiffs.

On August 9, 2022, the *Murphy II* Plaintiff filed a Third Amended Complaint (Dkt. 91), which was nearly identical to the Fifth Amended Complaint in *Murphy I*, including trafficking claims based on the posting of the Murphy Videos. *See Murphy II* Complaint at ¶ 108.

The Court Must Stay This Action Pursuant To Section 1595(b)(1)

The Motion to Stay filed by MG Freesites in *Murphy I* (attached as **Exhibit A**), applies equally to this case. As in *Murphy I*:

- Plaintiff's claim arises either from the same Videos at issue in *Murphy I*, or from a video that allegedly was created by the same person, during the same time period, under the same circumstances – namely, by Murphy, in the locker rooms of Limestone College in 2012 or 2013, while Plaintiffs were students visiting for a sporting event.
- The TVPRA claims in *Murphy I* and *Murphy II* both are premised on the exact same allegations that MG Freesites “conspired with” Murphy, “participated” in a sex trafficking venture with Murphy, and conducted an unlawful RICO enterprise with Murphy.
- The operative complaints in both *Murphy I* and *Murphy II* explicitly refer to the Gaffney Police Department's (“Gaffney PD”) ongoing criminal “investigation into the illegal video recordings which took place on Limestone's College campus” which, “remains ongoing.” *Id.* ¶ 81; *Murphy I* Complaint ¶ 83.

As explained in the Motion to Stay, Section 1595(b)(1) of the TVPRA provides that “[a]ny civil action filed under subsection (a) *shall* be stayed during the pendency of *any* criminal action,” including an “investigation,” “arising out of the same occurrence in which the claimant is the victim.” Mot. to Stay 6; *see also Sharma v. Mann*, 2021 WL 4865281, at *2 (N.D. Cal. Sept. 29, 2021) (“plain language of the TVPRA mandates a stay of the present civil action pending

resolution of the criminal proceedings.”). Here, as in *Murphy I*, there is a pending “criminal action” arising out of the same “occurrence” at issue in the civil action – namely, an investigation by the Gaffney PD into recordings taken by defendant Murphy on Limestone’s campus. *See Murphy II* Complaint ¶ 81. Additionally, a defendant in this civil action – Collins Murphy – is a “person of interest” in the criminal investigation, which “remains ongoing.” Mot. to Stay 4 (Ex. A to this Motion; Mayer Decl., Ex. E (Ex. B to this Motion). Finally, Plaintiff in this action (consistent with her own allegations) is among the victims of the criminal conduct being investigated by the Gaffney PD.

Accordingly, pursuant to Section 1595(b)(1) of the TVPRA, this Court *must* stay this action until the conclusion of the criminal action.

DATED August 24, 2022

Columbia, South Carolina

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